

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Alesco Preferred Funding XV, Ltd., and
Alesco Preferred Funding XVI, Ltd.,

Plaintiffs,

v.

American Bancorporation,

Defendant.

ORDER

Civil No. 13-2963 ADM/JJK

The above-entitled matter came on for consideration before the undersigned United States District Court Judge on Plaintiffs' Motion for Summary Judgment [Docket No. 17]. Defendant did not respond to the Motion for Summary Judgment within the time directed by Local Rule 7.1(c)(2). By letter to the Court dated April 24, 2014 [Docket No. 25], counsel for Defendant notified the Court that Defendant would not oppose the Motion for Summary Judgment and that a hearing was not necessary.

"Summary judgment, if appropriate, shall be entered against the adverse party." Fed. R. Civ. P. 56(e); see United States v. 9638 Chicago Heights, 27 F.3d 327, 329 n.1 (8th Cir. 1994) (stating that failure to respond to a motion for summary judgment does not automatically compel resolution in favor of the moving party). Given Defendant's response, summary judgment is appropriate.

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiffs' Motion for Summary Judgment [Docket No. 17] is **GRANTED**.
2. Judgment shall be entered against Defendant American Bancorporation as follows:

- a. Judgment entered in favor of Alesco XV for \$27,297,588.34, comprised of \$20,000,000.00 in principal, \$7,291,588.34 in accrued interest as of March 17, 2014, with post-judgment interest to accrue thereon at the legal rate from the entry of this Order and Judgment;
- b. Judgment entered in favor of Alesco XVI for \$13,645,794.17, comprised of \$10,000,000.00 in principal, \$3,645,794.17 in accrued interest as of March 17, 2014, with post-judgment interest to accrue thereon at the legal rate from the entry of this Order and Judgment; and
- c. Joint judgment on behalf of the Alesco Entities for contractual attorneys' fees and costs totaling \$165,535, which sum shall be applied evenly for the benefit of Alesco XV (in the amount of \$82,767.50) and Alesco XVI (in the amount of \$82,767.50), and such costs of collection will not accrue post-judgment interest.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

s/Ann D. Montgomery

ANN D. MONTGOMERY

U.S. DISTRICT JUDGE

Dated: April 28, 2014.